**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**
**ORDINARY ORIGINAL CIVIL JURISDICTION**

**APPEAL NO. 617 OF 1997**
**IN**
**WRIT PETITION NO. 2027 OF 1987**

1. Smt. Sarla, widow of Shri Tekchand ]
   Notandas Valecha, residing at 68/23,]
   Lohia Nagar, 306 Lal Bahadur Shastri]
   Marg, Kurla (West), Mumbai - 400070.]

2. Ajay Tekchand Valecha, son of late ]
   Shri Tekchand Notandas Valecha, ]
   residing at 68/23, Lohia Nagar, 306,]
   Lal Bahadur Shastri Marg, Kurla (W),]
   Mumbai - 400 070. ] .. Appellants
   (Ori.Petitioner)

Versus

1. The Maharashtra Housing & Area ]
   Development Authority (MHADA) ]
   Griha Nirman Bhavan, 4th floor, ]
   Bandra (East), Mumbai 400 051. ]

2. Shri P.S.A. Sundaram, Administrator,]
   The Maharashtra Housing & Area ]
   Development Authority (MHADA), ]
   Griha Nirman Bhavan, 4th Floor, ]
   Bandra (East), Mumbai 400 051. ]

3. State of Maharashtra. ] .. Respondents

Mr. Mahesh Londhe i/b M/s. Sanjay Udeshi & Co. for the appellants.

Mr. S.M. Dixit, AGP, for the respondents No.1 to 3.

**CORAM: R.M. LODHA &**
**ANOOP V. MOHTA, JJ.**

**DATED: 14TH FEBRUARY, 2006**

**ORAL JUDGMENT:** [Per R.M. Lodha, J.]

. Tekchand Notandas Valecha (since deceased) joined the service as Rent Collector on 2nd December, 1958 in the Bombay Housing Board. He was promoted to the post of Superintendent on 5th July, 1986, effective from 8th August, 1983. He was posted as Assistant Estate manager on 5th November, 1986. By the order dated 31st March, 1987, he was compulsorily retired from the service. He challenged the order of compulsory retirement by filing Writ Petition No. 2027 of 1987. The learned Single Judge dismissed the Writ Petition on 31st August, 1996, giving rise to the present Appeal.

2. During the pendency of the Writ Petition, the employee died and, in his place, his legal representatives were brought on record who filed the Appeal against the impugned judgment.

3. The Bombay Housing Board Act, 1948, was repealed by the Maharashtra Housing & Area Development Act, 1975 and the Maharashtra Housing & Area Development Authority (MHADA) came into existence. MHADA framed the scheme for compulsory retirement of its employees at the

age of 50/55 years. As per the said scheme, the case of the employee was considered by the Special Review Committee and he was not found fit to be continued in the service.

4. The original record of the deceased employee was placed for our perusal by Mr. Kailas Jadhav, Secretary, MHADA, who is present in Court.

5. In the service record, for the year 1980-81, it is recorded that he has loose supervision over the Rent Collectors and his administrative ability is not up to the mark.

. For the year 1982-83, he has been found to have no administrative ability, not fit for promotion and not even fit for continuance in the present post. His general assessment is recorded "cowardice". For the period from 5th November 1986 to 31st March 1987, the following remarks have been made in his Confidential Report:

> "(i) Ineffective, incapable of providing guidance, leadership to his subordinates.
>
> (ii) His contribution to office disposal, notings, drafting is negligible.
>
> (iii) He must make earnest efforts."

6. It is true that intermittently, the service record of the employee shows satisfactory assessment, but in the matter of compulsory retirement, the authority is required to consider the entire record of service before taking decision in the matter and more importance has to be given to the record of later years. On the basis of the entries in the service record that we have noticed above coupled with some satisfactory record, if the Special Review Committee found that the employee was not fit to be continued in the service, it cannot be said that the order of compulsory retirement is based on no evidence or is arbitrary. It is not the case of the appellants that the order of compulsory retirement is actuated with ulterior motive.

7. We find no justification to interfere with the order of the learned Single Judge refusing to interfere with the order of compulsory retirement.

8. Appeal is dismissed with no order as to costs.

Sd/-
**[R.M. LODHA, J.]**

Sd/-
**[ANOOP V. MOHTA, J.]**

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